

PT 98-21

Tax Type: PROPERTY TAX

Issue: Charitable Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS**

| | | | |
|----------------------------------|---|------------------------|------------------------|
| WINSTANLEY/INDUSTRY PARK |) | | |
| NEIGHBORHOOD ORGANIZATION |) | | |
| Applicant |) | | |
| |) | Docket #s | 94-82-312 |
| v. |) | | 94-82-313 |
| |) | | 94-82-314 |
| |) | Parcel Index #s | 02-19-0-413-026 |
| |) | | 02-19-0-413-028 |
| THE DEPARTMENT OF REVENUE |) | | 02-19-0-413-027 |
| OF THE STATE OF ILLINOIS |) | | |

RECOMMENDATION FOR DISPOSITION

Appearances: Mr. James Jones appeared on behalf of the Winstanley/Industry Park Neighborhood Organization.

Synopsis:

The hearing in this matter was held on January 13, 1997, at 1100 Eastport Plaza Drive, Collinsville, Illinois, to determine whether or not St. Clair County Parcel Index Nos. 02-19-0-413-026, 02-19-0-413-028, and 02-19-0-413-027 qualified for exemption from real estate taxation for the 1994 assessment year.

Rev. W. M. Cowan, a board member of the Winstanley/Industry Park Neighborhood Organization (hereinafter referred to as "WIPNO"), and Mr. James Perry, also a member of the board of WIPNO, were present and testified on behalf of WIPNO.

The issues in this matter include, first, whether WIPNO is a charitable organization; secondly, whether WIPNO owned the parcels here in issue during the 1994 assessment year; and lastly, whether WIPNO used the parcels here in issue for charitable purposes during the 1994 assessment year. Following the submission of all of the evidence and a review of the record, it is determined that WIPNO is a charitable organization. It is also determined that WIPNO owned these parcels during the 1994 assessment year. Finally, it is determined that WIPNO used these parcels for primarily charitable purposes during the 1994 assessment year. It is therefore recommended that these parcels be exempt from real estate taxation for the 1994 assessment year.

Findings of Fact:

1. The jurisdiction and position of the Illinois Department of Revenue (hereinafter referred to as the "Department") in this matter, namely that these parcels did not qualify for exemption for the 1994 assessment year, was established by the admission in evidence of Department's Exhibit Nos. 1 through 5A.

2. On October 19, 1994, the St. Clair County Board of Review transmitted to the Department Applications for Property Tax Exemption To Board of Review concerning each of the three parcels here in issue for the 1994 assessment year. (Dept. Ex. Nos. 1, 1E, & 1J)

3. On May 9, 1996, the Department advised the applicant that it was denying the exemption of each of these parcels because WIPNO failed to furnish certain additional information that had been requested by the Department. (Dept. Ex. Nos. 2, 2A & 2B)

4. By a letter dated June 11, 1996, the Interim Executive Director of WIPNO requested a formal hearing in these matters. (Dept. Ex. No. 3)

5. The hearing in this matter, conducted on January 13, 1997, was held pursuant to that request.

6. WIPNO was incorporated on January 21, 1993, pursuant to the General Not For Profit Corporation Act of Illinois, for the following purposes:

Charitable: To relieve poverty and combat community deterioration.
(Appl. Ex. 1B)

7. WIPNO acquired the three parcels here in issue pursuant to a quit claim deed from the St. Clair County Trustee on May 17, 1993. (Dept. Ex. No. 1B)

8. In the early summer of 1991, the residents of the area around the lots here in issue, located at the corner of Illinois Avenue and 26th Street, in East St. Louis, Illinois, became concerned about the condition of these lots. The area residents were concerned about the abandoned, unsecured buildings on these parcels, the undergrowth, and the constant illegal dumping which was taking place on these parcels. These conditions presented an opportunity for criminal activity, a health risk, and a danger to the children living in the area. The residents organized the Concerned Citizens of Precinct 19 (hereinafter referred to as the "Concerned Citizens"). Over the next two years, as a result of a cooperative effort of WIPNO and the concerned citizens, WIPNO was able to acquire these parcels. (Appl. Ex. No. 1E)

9. Once these parcels were acquired, WIPNO and the concerned citizens enlisted the help of the University of Illinois Urban Planning Department to design a park and playground. Together, with the help of volunteer labor, WIPNO and the concerned citizens constructed a park and playground on these parcels during 1993. (Appl. Ex. Nos. 1E & 1S)

10. The park and playground are located on the parcels here in issue. The park and the playground are available at no cost at anytime to anyone who wants to use and enjoy them. (Tr. pp. 10 & 11)

11. During the fiscal year ending June 30, 1995, which included one half of 1994, the total income of WIPNO was \$55,579.00. This total income consisted of \$3,038.00 of contributions, rental income from property other than these parcels of \$1845.00, income from fund raisers of \$3,243.00, and government and private grants of \$47,453.00. (Dept. Ex. No. 1R)

Conclusions of Law:

Article IX, Section 6, of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the fundamental rule of construction is that a tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956). Whenever doubt arises, it is to be resolved against exemption, and in favor of taxation. People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1944). Finally, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967).

In the case of Methodist Old Peoples Home v. Korzen, 39 Ill.2d 149 (1968), the Illinois Supreme Court laid down six guidelines to be used in determining whether or not an organization is charitable. Those six guidelines read as follows: (1) the benefits derived are for an indefinite number of persons; (2) the organization has no capital, capital stock, or shareholders, and does not profit from the enterprise; (3) funds are derived mainly from private and public charity, and are held in trust for the objects and purposes expressed in its charter; (4) charity is dispensed to all who need and apply for it; (5) no obstacles are placed in the way of those seeking the benefits; and (6) the primary use of the property is for charitable purposes. In view of the fact that the park and playground are open and available to anyone who wants to use them at no cost, I conclude that the benefits are for an indefinite number of persons, that charity is dispensed to all who need and apply for it, and that no obstacles are placed in the way of those seeking the benefits. Since WIPNO is an Illinois general not for profit corporation, I conclude that it has no capital, capital stock, or shareholders and does not profit from the enterprise. I also conclude that the funds of WIPNO are derived from public and private charity, and are held in trust for the objects and purposes expressed in its charter.

In the case of Decatur Sports Foundation v. Department of Revenue, 177 Ill.App.3d 696 (4th Dist. 1988), the Court held, after applying the Methodist Old People Home tests, that an organization which owned and operated athletic fields for recreational purposes qualified for exemption as a charitable organization. I therefore conclude that WIPNO qualifies for exemption as a charitable organization, which during 1994 owned these parcels and used them as a park and playground available to anyone who wished to use those parcels.

I therefore recommend that St. Clair County Parcel Index Nos. 02-19-0-413-026, 02-19-0-413-028, and 02-19-0-413-027 be exempt from real estate taxation for the 1994 assessment year.

Respectfully Submitted,

George H. Nafziger
Administrative Law Judge
March 17, 1998